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Joseph Martin
1820 Hutton Road
Oakland, MD 21550

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

JUL 1 2014

Joseph Martin
1820 Hutton Road
Oakland, MD 21550

Re: **REQUEST TO SHOW CAUSE**
Bishop's Convenience Store
27354 George Washington Highway
Aurora, WV 26705

Dear Mr. Martin:

Subtitle I of the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. §§ 6991-6991i, and regulations promulgated pursuant thereto at 40 C.F.R. Part 280, regulate underground storage tanks ("USTs") used to contain regulated substances, including, but not limited to, petroleum products such as gasoline and crude oil. This Request to Show Cause Letter ("Show Cause Letter") concerns the underground storage tanks systems that are or were located at the Facility.

The U.S. Environmental Protection Agency ("EPA" or the "Agency") believes you may be or have been an owner and/or operator of the USTs located at Bishop's Convenience Store, 27354 George Washington Highway, Aurora, WV 26705. It is EPA's understanding that the convenience store, formerly known as Bishop's Convenience Store, is now known as Fast Freddy's. (After this, Bishop's Convenience Store is referred to in this letter as the "Facility.")

SHOW CAUSE LETTER

Based on the information currently available to it, EPA has made the preliminary determination that you (the "Respondent") have violated the requirements for the prevention of releases from your UST systems. Because of EPA's preliminary determination, the Agency is issuing to the Respondent this Show Cause Letter.

EPA believes that there is a sufficient basis for the issuance of an Administrative Complaint seeking the assessment of a civil penalty for the violations. Prior to issuing an Administrative Complaint, EPA is providing you the opportunity to confer with EPA to

show cause as to any reasons why an Administrative Complaint should not be issued for any or all of the violations identified below. EPA is also inviting you to meet with EPA to discuss the possibility of entering into a settlement of the violations with the Agency without litigation.

The UST system requirements are set out in Subtitle I of RCRA and the State of West Virginia's EPA-authorized UST management program. The specific regulations that EPA has reason to believe the Respondent has violated are in the State of West Virginia's federally authorized UST management program. Effective February 10, 1998, pursuant to Section 9004 of RCRA, 42 U.S.C. § 6991c, and 40 C.F.R. Part 281, Subpart A, EPA granted the State of West Virginia final authorization to administer a state underground storage tank management program ("West Virginia Authorized UST Management Program") in lieu of the Federal underground storage tank management program established under Subtitle I. See 62 Fed. Reg. 49620 (September 23, 1997) and 63 Fed. Reg. 6667 (February 10, 1998). Through this final authorization, the provisions of the West Virginia Authorized UST Management Program became requirements of RCRA Subtitle I and are, accordingly, enforceable by EPA pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e.

Title 33, Series 30 of West Virginia's Hazardous Waste Management Regulations (cited hereinafter as "WVUSTR" with citations to §§ 33-30-1, et seq., as needed) sets forth the West Virginia Authorized UST Management Program. WVUSTR incorporates by reference the federal underground storage tank program's regulations located at 40 C.F.R. Part 280, with some modifications. All references to the provisions of 40 C.F.R. Part 280, which are incorporated by reference in the WVUSTR, are the regulations set forth in the 1995 edition of the Code of Federal Regulations.

EPA has reason to believe the Respondent has violated the WVUSTR by committing the following violations:

Violations

1. The Respondent has violated WVUSTR § 33-30-2.1 and 40 C.F.R. § 280.71(a) by failing to notify the WVDEP of the intent to close the USTs at the Facility.
2. The Respondent has violated WVUSTR § 33-30-2.1 and 40 C.F.R. § 280.72 by failing to assess the Facility for contamination.

The following information source provides the bases for EPA issuing this Show Cause Letter: April 7, 2012 and May 7, 2014 inspections of the Facility by West Virginia Department of Environmental Protection (WVDEP) representatives. Based upon this information, EPA could issue an Administrative Complaint seeking a civil penalty for the violations.

If the Respondent wants to take advantage of the opportunity to discuss this matter with EPA prior to the filing of an Administrative Complaint, **the Respondent must contact the Agency within 14 calendar days after receipt of this Show Cause**

Letter. If you wish to discuss this matter, please contact Melissa Toffel at 215-814-2060. If you are represented by legal counsel, please have your attorney contact Philip Yeany, the EPA attorney assigned to this matter, at 215-814-2495. Please be advised, however, that EPA may decide to issue an Administrative Complaint at any time after thirty days from the issuance of this Show Cause Letter, unless the Respondent has discussed this matter with EPA or the Respondent provides information to EPA showing that the violations have not occurred.

EPA has not determined whether the Respondent qualifies as a "small business" under the Small Business Regulatory Enforcement and Fairness Act (SBREFA). Please see the enclosed Small Business Information Sheet. This enclosure provides information on contacting the SBREFA Ombudsman to comment on federal enforcement and compliance activities and provides information on compliance assistance. As noted in the Enclosure, any decision to participate in such program or to seek compliance assistance does not relieve Respondent of its obligation to respond in a timely manner to an EPA information request or other enforcement action and does not create any new rights or defenses under law.

To the extent that there are ongoing violations at the Facility discussed in this letter, the Respondent must correct these violations immediately. EPA specifically reserves the right to use any and all enforcement tools at its disposal to address past and/or ongoing violations at the facilities, including, but not limited to, the imposition of civil penalties. **Again, EPA emphasizes that the Agency may issue an administrative complaint if the Agency does not hear from the Respondent within 14 calendar days after the Respondent's receipt of this Show Cause Letter.**

Sincerely,



Carol Amend
Associate Director
Office of Land Enforcement

Enclosure

cc: Ruth M. Porter, WV DEP (w/o encl.)
Melissa Toffel, EPA (w/o encl.)
Philip Yeany, EPA (w/o encl.)
Thomas Walter, MDE (w/o encl.)